

IN THE HIGH COURT OF PUNJAB AND HARYANA, CHANDIGARH.

RFA No.1695 of 1990

Date of decision: 5.7.2011

Jeava Singh

...Appellant

vs

State of Haryana and another

....Respondents

CORAM: HON'BLE MR.JUSTICE RAKESH KUMAR GARG.

Present: None for the appellant.

Mr.Ashish Gupta, AAG Haryana, for the State.

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Rakesh Kumar Garg,J.(oral).

This judgment shall dispose of two appeals i.e. RFA No.1695 of 1990 which has been filed by the claimants for enhancement of compensation and RFA No.1876 of 1990, filed on behalf of the State of Haryana seeking reduction of the compensation, challenging the award of Reference Court dated 19.4.1990 passed in LAC No. 27 of 1990 (titled as Jeava Singh v. State of Haryana).

Vide notification dated 7.1.1988 published in Haryana Government Gazette, issued under section 4 of the Land Acquisition Act, 1894 (for short 'the Act'), Government of Haryana, notified the land in dispute measuring 2 kanal 11 marlas situated in village Bijjarpur Tangori , Tehsil Thanesar, District Kurukshetra, with intention to acquire the same for a public purpose,namely, for allotment of residential plots to landless/homeless members of backward classes and economically weaker section of the village. Notification dated 25.4.1988 was published under section 6 of the Act, declaring that the land measuring 2 kanal 11 marlas was acquired

for the public purpose mentioned above. The landowners were given an opportunity to file objections. After hearing the objections Award No.6 dated 30.6.1988 was pronounced by the Land Acquisition Collector fixing compensation at the rate of Rs.20,000/- per acre for Chahi land, Rs.15000/- per acre for Barani land, Rs.12,000/- per acre for Banjar Jadeed, Rs.8000/- per acre for Banjar Kadeem land and Rs.6000/- per acre for gair mumkin.. It is not in dispute that the land in dispute is Chahi in nature. The landowners/appellants were also awarded solatium at the rate of 30% along with variation charges at the rate of 15% of the compensation amount. However, no interest was awarded as possession was not taken till the date of the award, was announced.

Aggrieved against the aforesaid award of the Collector, landowners filed reference under Section 18 of the Act, contending that the market value determined by the Land Acquisition Collector was inadequate and he has failed to take into consideration the prevailing market value of the land in question. Application was contested by the State of Haryana submitting that the compensation awarded by the Collector was quite adequate and market value was fixed taking taking into consideration relevant factors for the said purpose.

On the pleadings of the parties, the following issues were framed:-

1. What was the market value of the acquired land at the time of issue of notification under section 4(1) of the Land Acquisition Act ?OPP
2. Relief.

After considering the evidence on record, vide the impugned

award the Reference Court fixed market value of the land at the rate of Rs.40,000/- per acre for Chahi land. The claimants were also held entitled to all the statutory benefits as per the Amendment Act of 1984. However, the variation charges at the rate of 15% awarded by the Collector were ordered to be deleted, as the same were not permissible in law.

Still feeling dissatisfied, the appellant has approached this Court by way of the instant appeal, for further enhancement of the compensation awarded to him.

I have heard the learned counsel for the parties and perused the record of the case with their help.

It is not in dispute that the acquired land was agricultural in nature at the time of acquisition. It has also been established on record that the same was near to the village abadi. It may also be relevant to mention that the sale instances produced on record by the State depict that the average sale price of the land was Rs.15233/- and Rs.19254/-. It may also be noticed that there is nothing on file to prove that the lands of these two sale instances was also situated in the same locality. On the other hand sale deed Ex.P1 dated 2.7.1987 vide which 4 marlas of land was sold for Rs.3000/- denotes the average sale price of Rs.1,20,000/- and it has also come on record that the land under the said sale instances is similarly situated as the acquired land. However, it is well settled that even the sale instances pertaining to small piece of land can be considered while determining the value of a big chunk of land after applying a suitable cut. Keeping in view the fact that land was measuring 4 marlas was sold vide sale stance Ex.P1 and that the total land acquired in question is 2 Kanal 11 marlas, this Court feels that a cut off 25% on the said sale price be applied in the instant case.

Thus, after applying the said cut, the rate of the land comes to Rs.90,000/- per acre. It may also be noticed that the said sale instance is dated 2.7.1987 whereas the acquisition has taken place after about six months i.e. 7.1.1988. Thus, the appellant is also entitled to a suitable increase in the market value of the land keeping in view the facts and circumstances of the case. This Court is of the view that the market value of the land in question should have been determined at Rs.100,000/- per acre.

In view of the above, RFA No.1695 of 1990 filed by the claimants is allowed and RFA No.1876 of 1990 filed by the State of Haryana is dismissed. The market value of the land in question is determined at the rate of Rs.1,00,000/-per acre. The appellant is also entitled to all the statutory benefits as permissible.

(Rakesh Kumar Garg)
Judge

July 5, 2011
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IN THE HIGH COURT OF PUNJAB AND HARYANA, CHANDIGARH.

RFA No.1876 of 1990

Date of decision: 5.7.2011

State of Haryana

...Appellant

vs

Jeeva Singh

....Respondent

CORAM: HON'BLE MR.JUSTICE RAKESH KUMAR GARG.

Present: Mr.Ashish Gupta, AAG Haryana, for the State.

None for the respondent.

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Rakesh Kumar Garg,J.(oral).

For orders, see RFA No. 1695 of 1990.

(Rakesh Kumar Garg)
Judge

July 5, 2011

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